

Meeting Protocols – Nutrient Trading RAP

Institute for Environmental Negotiation

Meeting Guidelines

- Respectful, focused dialogue
- Cell phone on vibrate/silent; take necessary calls outside the meeting or during breaks
- “E-tiquette” – avoid texting/emailing on phones during meeting time
- “Acronym Alert” – please define technical jargon; do not assume shared knowledge
- Raise Name Tents to join the queue
- Ask questions and make comments (including to members of the public) through the facilitator
- Speak up!

Definition of Consensus

As a supplement to the protocols provided by DCR, the Institute for Environmental Negotiation proposes the following three-part definition of consensus:

1. “Consensus” indicates that you can support the proposal without compromising fundamental or core values held by you or the group you represent. It is important to speak up when a fundamental value or interest is compromised.
2. “Consensus” indicates that you will work actively to support the agreement.
3. “Consensus” indicates that you will support all of the agreement, and not just the parts you like best.

When understood in this way, the process of testing for and building consensus allows us to gain greater understanding of areas of core concern as well as agreement.

Testing for Consensus

“Three Finger” Test

3 – Full support

2 – Some questions and concerns, but can support

1 – Too many questions or concerns; cannot support

If all participants show 3 or 2 fingers, then consensus has been achieved. If there are a majority of 2 fingers, the consensus may be weak and the group may wish to dialogue further. If one or more persons shows 1 finger, consensus has not been achieved. We would typically turn to that person(s) and ask for explanation of the core concern(s) so that they may be fully understood and noted. We might also ask, where appropriate, what it would take to achieve consensus around the given issue. As the Nutrient Trading RAP progresses, DCR and DEQ staff may ask for a “litmus test” of consensus to gauge the “temperature” of the room and identify any core concerns to consider as they work on draft regulations.

“Flip Chart” Notes – Nutrient Trading RAP Meeting 1

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Issues, Recommendations, and Information Requests Identified by the RAP

“Top Issues” Identified by RAP Members

- Local government options (mentioned by 2 participants)
- Non-Bay area
- Trading
- Maximizing available credits
- Baselines and local water quality
- Creating a predictable program (mentioned by 3 participants)
- Incentives for market participation
- Clear process that helps bring reductions to market
- Public transparency, from start to finish
- How will it be paid for?
- Program that is workable for farmers (mentioned by 4 participants)
- Concern about how far credits can “travel outside the home watershed”
- Credit quality/certainty and ongoing verification of practice and performance baselines and additionality
- Credit certification
- Credit calculation methodologies
- Consistency in applying rules and ability to use Nutrient Credits (no local overrule)
- More adaptability for new technologies and practices to come into play
- Establishing Baselines
- Program to help achieve Bay Restoration goals by 2025

Additional Issues Identified in the Meeting

- Clarify “Bundling”
- Non-Bay parts of the State
- Baseline requirements for FSA Tract
- Registry and Transparency, Cyber Repository
- Baselines & Timelines
- Phased Release
- Planting Rates
- Length of Monitoring
- Credit to Wetlands

- Need to assess original Mitigation Bank approval
- Mitigation Bank to Nutrient Credit
- Clarify “Unregulated Entities”
- How to account for new and emerging science? More discussion need on 2f
- Definitions
- Standards for Credit Verification
- Certainty of outcome and reliability of Trading Ratios
- How to determine the implications for local water quality, and what water quality limitations will be placed on trading? More certainty for bankers and more transparency are needed
- Where to trade credits in Virginia? Concern about a lack of statewide willingness to comply
- Evaluating non-traditional practices and a need to look at all implications of these
- Baselines and overview of the RMP Program
- Clarify the role of local government, especially with MS4 permits and the 5% issue
- Mirror wetlands approval process / step-wise process
- How will the program be funded? Will the law address cost? What, if any, cost will fall to the taxpayer? How to set fees, and what level of fee? (note that law calls for a 6% fee)
- Cost-sharing and crediting (e.g. 60% cost share and buffers); need to look into accounting as it relates to FSA Tracts
- Tax Credits
- Credit re-sale or recovery
- Clearinghouse? Technical Evaluation Committee? How to handle new and emerging technologies (could be “Inter-Agency Team” similar to the model for wetlands)

Comments on the Work Plan

- Concern about the February 1st meeting and suggestion that the “Baselines” discussion be moved to the December meeting
- Request that the February meeting start later, perhaps 11am – 4pm
- Request that we not “lock in” on the number of meetings or completion date and recognition that flexibility is needed as we work through priorities
- Concern about subcommittees meeting in January and preference to take the time needed to do the work in the large group
- Request to see a draft of documents a week prior to a meeting
- Request to move the Water Quality discussion to an earlier meeting
- Concern that we will need a second meeting to review the final package of regulations
- Request to use part of the December meeting for presentations by DEQ technical experts and the Urban Stormwater Group or Center for Watershed Planning
- The April 10th date conflicts with an annual conference and needs to be changed

Information Requests

- Further explain and provide documentation for Cranston Millpond
- CRP in relation to Wetlands Mitigation
- Present on how Forestry is handled in the Virginia Code
- Provide documentation for Mitigation Banks
- Master “definitions” list for Virginia (it was pointed out that this does not exist, but DCR can include requested definitions as part of the regulations)
- Overview of RMP Program
- Information on current level of effort for the program

Acronyms / Technical Terms

- Bundling
- Unregulated Entities
- BMP
- FSA Tract
- CRP
- RMP
- Stormwater
- Non-Point

Transcription of Flip Chart Notes of Discussion Following Presentations

Questions/Comments after Presentation 1

- Clarify the term “Bundling” – this needs to be unpacked
- Clarify the term “unregulated entities”
- How will we address the Non-Bay parts of the State in terms of agriculture and baselines?
- There was a question about the Construction General Permit and what entities are affected by this?

Questions/Comments after Presentation 2

- FSA Tracts – Question about the Baseline requirements linked to an entire FSA tract. Is this an internal guideline or published regulation? FSA Tracts constitute a general issue for discussion.
- What is the date for data presented? (answer: late 2007)
- Are details of the banks on DEQ’s website? Are they under conservation easement?
- Registry needs some kind of “Cyber Repository”
- Explain Cranston Mill Pond (urban); need more information

- How will DCR share, transparently, info on registry?
- Are unsold credits available forever?
- 2005 July land use—Would CRP status in 2005 influence?
 - What is on it is what matters
 - Question about what in addition has been done since 2005
- Baseline Timeline is an issue
- CRP in relationship to Wetlands mitigation as a resource
- Issue broader than mechanical planter
- From a water quality perspective, early succession stages are a good thing
- Questions around phased release
- Forestry stewardship – What about conservation planting and natural succession?
- Who can prepare plans and how long/frequently are they monitored? What if deed restriction is lost?
- Va Code and forestry activities
- Monitoring and reporting requirements
- Is it currently possible to give credit to wetlands?
- Withdraw before going back into DEQ program
- Issue of mitigation bank to nutrient credit
- Need to ensure coordination – no “double dipping”
- Nutrient Banks – number of acres involved in total? Pounds reduced in total?
- Algal Turf Scrubbing – What will this fall under? DEQ or DCR?

Questions/Comments after Presentation 3 on Issues

- Discussion around 2f (“at the time of certification”) in relation to the need for a technical evaluator
- Cannot specifically reference efficiencies
- DCR will receive requests to clarify terms and provide definitions
- How will CAFOs be addressed?